

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.299 of 2015

Date: 27-01-2015

Between:

Ravikanti Raju and 2 others

.. Petitioners

AND

The Peddapalli Nagar Panchayat, represented by
Its Commissioner, Peddapalli, Karimnagar

.. Respondent

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.299 of 2015

ORDER:

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This writ petition is filed for a mandamus declaring the action of the respondent in not considering the representation of the petitioners dated 19-12-2014 for continuing them as tenants in Shop Nos.2 and 3 of the Shopping Complex at Janda Chowrasta, Peddapalli, Karimnagar District till adjudication of W.P.No.32152 of 2014 as arbitrary and illegal and for a consequential direction to the respondent to continue them as tenants.

2. The case of the petitioners is that the petitioners are the tenants of Shop Nos.2 and 3 of Shopping Complex belong to the respondent Municipality situated at Peddapalli and they have been running the business of medical shop and rice depot for the last 12 years. The respondent issued a notice dated 22-09-2014 directing them to vacate the shops as the respondent is intending to construct Sulabh Complex in the place of their shops. Challenging the said notice, the petitioners filed W.P.No.30271 of 2014 wherein

this Court on 21-10-2014 granted time till 20-01-2015 for vacating the premises. It is also stated that W.P.No.32152 of 2014 is filed by one Kajjeru Vara Prasad and Siva Kumar challenging the action of the respondent in intending to construct the proposed Sulabh Complex in front of their house and this court granted interim orders restraining the respondent from construction of the proposed Sulabh Complex. It is further stated that since the construction of Sulabh Complex is sub-judice, the petitioners submitted representation dated 19-12-2014 requesting to continue them as tenants. It is further stated that they undertake to vacate the shops at the time of demolition of the shopping complex without claiming any rights. But, the respondent is demanding them to vacate the premises without considering their request. Aggrieved by the same, the present writ petition is filed.

3. Learned counsel for the petitioners submits that since there is changed circumstance and since this court granted interim stay in respect of construction of proposed Sulabh Complex, the petitioners can be continued till determination of the writ petition.

4. On the other hand, learned standing counsel for the respondent submits that the respondent Panchayat is intending to construct Sulabh Complex in view of vacation of the interim order by this Court and when the petitioners voluntarily given their undertaking to vacate the premises by 20-01-2015, they cannot maintain the writ petition for the same cause of action.

5. A perusal of the order dated 21-10-2014 in W.P.No.30271 of 2014 shows that the petitioners therein were allowed to continue as tenants till 20-01-2015 on giving their undertaking to vacate the premises by 20-01-2015 and by virtue of the said direction, the petitioners given their undertaking to vacate the premises. When once the petitioners given their undertaking to vacate the

premises, they cannot maintain the writ petition for the same cause of action, more so, the action of the respondent is justified in taking action for vacating the petitioners from their shops and it cannot be said that the action of the respondents in vacating the premises is arbitrary and illegal requiring the interference of this Court by exercising the jurisdiction under Article 226 of the Constitution of India, and hence, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, if the respondent wants to continue the petitioners as tenants till construction of Sulabh Complex, it is for the respondent to take a decision thereon and pass appropriate in accordance with law. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 27-01-2015

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